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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,471	02/01/2002	Jerry S. Brown	83635	5963

7590

07/30/2003

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EXAMINER

ANTHONY, JOSEPH DAVID

ART UNIT	PAPER NUMBER
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1714

DATE MAILED: 07/30/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/057,471

Applicant(s)

BROWN, JERRY S.

Examiner

Joseph D. Anthony

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 14-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In independent claim 14, the phrase "an effective amount of a bleach activator" is indefinite. An effective amount to do what?

Furthermore, in claim 14, the phrase: " wherein the peroxygen compound and bleach activator are mixed in a surfactant composition prior to contacting a warfare agent" is deemed to be nothing more than a statement of intended use. Said phrase is thus not deemed to further limit the scope of the claimed solution which requires a peroxygen compound, a bleach activator and some solvent so as to be in the form of a solution.

Claim 16 is very indefinite. How can the kit contain the solution of claim 14 prior to mixing since mixing of peroxygen compound, bleach activator, and solvent is required to make the solution in the first place? What is applicant trying to claim? Is the kit composed to say two compartments one compartment containing a peroxygen compound and the other compartment containing a dissolved or suspended beach activator?

***Claim Objections***

3. Claims 15 and 20 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 15 is objected to because the surfactant composition is not a part of the claimed decontaminating solution of independent claim 14 since the surfactant composition is only added to the claimed decontaminating solution prior to its use.

Claim 20 is also objected to because independent claim 17 is drawn to a peroxycarboxylic acid composition whereas the limitation of claim 20 is a process of making limitation that does not limit the nature of the claimed composition.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting

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directly or indirectly from an international application filed before November 29, 2000.

Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 14-18 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Sanderson U.S. Patent Numbers (4,496,473 or 4,541,944) or Del Duca et al Patent Numbers (5,968,885 or 6,071,870).

Applicant's claims are deemed to be anticipated over Sanderson's '473, see examples 1-20 and claim 13.

Applicant's claims are deemed to be anticipated over Sanderson's '944, see the examples, such as examples 8 and 42-43.

Applicant's claims are deemed to be anticipated over Del Duca et al '885, see examples V-VII.

Applicant's claims are deemed to be anticipated over Del duca et al '870, see examples. Also see the abstract and column 10 and column 15.

7. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sanderson U.S. Patent Numbers (4,496,473 or 4,541,944) or Del Duca et al Patent Numbers (5,968,885 or 6,071,870).

Sanderson Patents have been described above and differs from applicant's claimed composition in that the reference does not directly teach (i.e. by way of an example) a compositions that contains applicant's specifically claimed component species.

Del Duca et al Patents have been described above and differs from applicant's claimed composition in that the reference does not directly teach (i.e. by way of an example) a compositions that contains applicant's specifically claimed component species.

It would have been obvious to one having ordinary skill in the art to use the broad disclosure of the references as motivation to actually use applicant's claimed component species since such species are deemed to fall within the broad disclosure of solvents, surfactants, bleach components, and bleach activators, as set forth by the references

8. Claims 14-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Scheuing et al. U.S. Patent Numbers (5,792,385 or 5,681,805) or Zhou et al. U.S. Patent Number 5,877,137 or Kott et al. U.S. Patent Number 6,117,357 or Miracle et al. U.S. Patent Number 6,096,098.

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Applicant's claims are deemed to be anticipated over Scheuing et al's '385 examples 9-11. Also see column 13, lines 29-42.

Applicant's claims are deemed to be anticipated over Scheuing et al's '805 examples 13-14. Also see claims 24-38.

Applicant's claims are deemed to be anticipated over Zhou et al's examples. Also see claims 1-14.

Applicant's claims are deemed to be anticipated over Kott et al's examples, such as examples XI. Also see claims 6-7.

Applicant's Claims are deemed to be anticipated over Miracle et al's examples, such as example IX. Also see claims 22-23.

9. Claims 14-15 are rejected under 35 U.S.C. 102(e) as being individually anticipated by Scialla et al. U.S. Patent Numbers (6,099,587 or 5,997,585 or 5,900,187)

Applicant's claims are deemed to be anticipated over Formulations I-III and the claims of '587, over the examples and claim 1 of '585, and over the examples and column 2, lines 1-10 of '187.

10. Claims 14, 16-18 are rejected under 35 USC 102(e) as being anticipated by Choy et al. U.S. Patent Number 6,010,994.

Applicant's claims are deemed to be anticipated over examples 3 and 5.

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11. Claims 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scheuing et al. U.S. Patent Numbers ( 5,792,385 or 5,681,805) or Scialla et al. U.S. Patent Numbers (6,099,587 or 5,997,585 or 5,900,187) or Kott et al. U.S. Patent Number 6,117,357 or Miracle et al. U.S. Patent Number 6,096,098.

The two Scheuing et al patents, the three Scialla et al patents, the Kott et al patent, the Miracle et al patent, have been described above and differ from applicant's claimed composition in that the following ways: 1) there is no direct teaching (i.e. by way of an example) to where a peroxy-carboxylic acid compositions is produced by the reaction product of the peroxygen compound and bleach activator, and 2) the reference does not directly teach (i.e. by way of an example) a compositions that contains applicant's specifically claimed component species.

It would have been obvious to one having ordinary skill in the art to use the individual broad disclosures of the references as motivation to actually react the peroxygen compound with the bleach activator to make a peroxy-carboxylic acid composition since such a reaction is the intended purpose of the taught compositions.

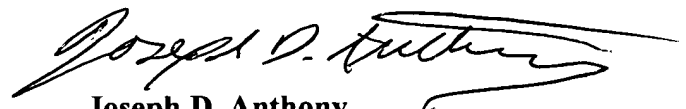
It would also have been obvious to one having ordinary skill in the art to use the individual broad disclosures of the references as motivation to actually use applicant's claimed component species since such species are deemed to fall within the broad disclosure of solvents, surfactants, bleach components, and bleach activators, as set forth by the individual references.



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***Examiner Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Joseph D. Anthony whose telephone number is (703) 308-0446. This examiner can normally be reached on Monday through Thursday from 7:35 a.m. to 6:00 p.m. in the eastern time zone. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on (703) 306-2777. The group (**non-after final**) FAX machine number is (703) 872-9310. The group (**after final**) FAX machine number is (703) 872-9311. Unofficial correspondence transmitted by FAX must be marked "DRAFT". All other papers received by FAX will be treated as Official communications and cannot be immediately handled by the Examiner. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-0651. The receptionist is located on the 8<sup>th</sup> floor of Crystal Plaza 3 (e.g. CP-3) and will be the welcome point for all visitors to the building.



**Joseph D. Anthony  
Primary Patent Examiner  
Art Unit 1714**

07/27/03